

REMARKS

Claims 2, 4-13 and 15-20 are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 102

Claims 2, 6-8, 10, 13 and 15-16 stand rejected under 35 U.S.C. § 102(e) as being anticipated by DE 19858903 A1 (DE '903). This rejection is respectfully traversed.

It is well established that in order for a claim to be anticipated by a reference, each and every element of the claim must be disclosed by the reference. DE '903 discloses a reinforcing element assembled from a tubular support (2) to which is connected an expandable mass (5) shown in Figure 3 to extend from the tubular support to the inside of a vehicle frame rail. DE '903 does not disclose a generally tubular body having an outer perimeter parallel to and abutting an inner perimeter of the frame member, as required by claim 2, as amended. Claim 2 therefore cannot be anticipated by DE '903. For the same reason, claims 6-8, 10, 13 and 15-16, which depend from claim 2, also cannot be anticipated by DE '903. Withdrawal of the rejection, and reconsideration and reexamination of the claims, is respectfully requested.

Claims 17-20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by DE 19858903 A1 (DE '903). This rejection is respectfully traversed.

Claim 17 includes the element of a reinforcing member comprising a tube having an outer perimeter closely conforming to an inner perimeter of the first frame member. DE '903 does not disclose that the reinforcing member includes a tube having an outer perimeter closely conforming to an inner perimeter of a tubular portion of the first frame

member. Claim 17 therefore cannot be anticipated by DE '903. Claims 18-20 depend from claim 17 and therefore also cannot be anticipated by Aloe et al. '988. Withdrawal of the rejection of claims 17-20, and reconsideration and reexamination of the claims, is respectfully requested.

Claims 2, 6-8, 10 and 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Blank (U.S. Pat. No. 6,494,525). This rejection is respectfully traversed.

Blank discloses an expansible reinforcer for reinforcing a hollow structural member of an automobile, aircraft, or boat, the reinforcer being flexible and comprising a synthetic, resin-based expansible reinforcing material secured thereto. Blank does not disclose a generally tubular body having an outer perimeter parallel to and abutting an inner perimeter of the frame member, as required by claim 2, as amended. Claim 2 therefore cannot be anticipated by Blank. For the same reason, claims 6-8, 10 and 15, which depend from claim 2, also cannot be anticipated by Blank. Withdrawal of the rejection, and reconsideration and reexamination of the claims, is respectfully requested.

REJECTION UNDER 35 U.S.C. § 103

Claims 4-5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over DE '903 in view of Aloe et al. '988. This rejection is respectfully traversed.

As discussed above, claim 2 cannot be anticipated by DE '903 because each and every element of the claim is not disclosed by the reference. Aloe et al. has been cited in the rejection of claims 4-5 for the purpose of drawing in the materials of construction. The existing shortcomings of DE '903 with respect to claim 2 are not addressed. Therefore, the combination of DE '903 and Aloe et al. '988 still does not

reach the claims. Withdrawal of the rejection, and reconsideration and reexamination of the claims, is respectfully requested.

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over DE '903 in view of Benedyk (U.S. Pat. No. 5,458,393). This rejection is respectfully traversed.

As discussed above, claim 8 cannot be anticipated by DE '903 because each and every element of the claim is not disclosed by the reference. Benedyk has been cited in the rejection of claim 9 for the purpose of drawing in the use of an interference fit. This teaching of Benedyk is incompatible with the expansible material of DE '903 in fitting the reinforcing member within the vehicle frame, and teaches away from the method of DE '903, therefore the combination of these references is inappropriate. Even if the combination were made, however, it would not reach the claimed invention. The existing shortcomings of DE '903 with respect to claim 8 are still not addressed. Therefore, the combination of DE '903 and Benedyk still does not reach the claims. Withdrawal of the rejection, and reconsideration and reexamination of the claims, is respectfully requested.

Claims 11-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over DE '903 in view of Janotik (U.S. Pat. No. 5,209,541). This rejection is respectfully traversed.

As discussed above, claim 8 cannot be anticipated by DE '903 because each and every element of the claim is not disclosed by the reference. Janotik has been cited in the rejection of claims 11-12 for the purpose of drawing in fixedly attaching the structural member by fasteners and external depressions. This teaching of Janotik is incompatible with the expansible material of DE '903 in fitting the reinforcing member

within the vehicle frame, and teaches away from the method of DE '903, therefore the combination of these references is inappropriate. Even if the combination were made, however, it would not reach the claimed invention. The existing shortcomings of DE '903 with respect to claim 8 are still not addressed. Therefore, the combination of DE '903 and Janotik still does not reach the claims. Withdrawal of the rejection, and reconsideration and reexamination of the claims, is respectfully requested.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 944-6522.

Respectfully submitted,

By: 

Donald J. Wallace
Reg. No. 43,977
Attorney for Applicants

Dated: 5-4-2004

CIMS 483-02-19
DAIMLERCHRYSLER INTELLECTUAL CAPITAL CORPORATION
800 CHRYSLER DRIVE
AUBURN HILLS, MI 48326-2757
248-944-6522

Serial No. 09/941,386

Atty. Ref 705558US1

Page 8 of 8